

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BURVIN STEVENSON,

Plaintiff,

CIVIL ACTION NO. 07-CV-14040-DT

vs.

DISTRICT JUDGE DENISE PAGE HOOD

**GEORGE PRAMSTALLER,
et al.,**

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

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**OPINION AND ORDER GRANTING PLAINTIFF'S
MOTION TO AMEND COMPLAINT**

This matter comes before the Court on Plaintiff's "Motion to Amend 1983 Pleadings" filed on November 1, 2007 which the Court will construe as a motion to amend his Complaint. (Docket no. 3). All pretrial matters have been referred to the undersigned for decision. (Docket no. 5). The Court disposes with oral argument on these motions. E.D. Mich. LR 7.1(e). The record does not show that Defendants have been served a summons and copy of the Complaint.¹ No response to this motion has been filed likely because of this lack of service of process. This motion is now ready for ruling.

This is a civil rights action filed by a state prisoner. Rule 15(a), Fed. R. Civ. P., provides that a party may amend its pleading once as a matter of course prior to service of a responsive pleading or within twenty days of serving its pleading if no responsive pleading is required. "Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). The decision whether to permit

¹ Plaintiff paid the filing fee and is not proceeding *in forma pauperis*.

amendment is committed to the discretion of the trial court. *Lucas v. Schneider Nat'l Carriers, Inc.*, 953 F.2d 644 (6th Cir. 1992) (unpublished).

Plaintiff attached a copy of his Amended Complaint to his Motion to Amend (docket no. 3). The attachments to his original Complaint are not affixed to his Amended Complaint, however. Because no responsive pleading has yet been filed, the Court finds that Plaintiff's Amended Complaint should be filed under Fed. R. Civ. P. 15(a). Accordingly, Plaintiff's motion will be granted.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend 1983 Pleadings (docket no. 3) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff file with the Clerk of Court a complete copy of his Amended Complaint (which will be substituted for his original Complaint) on or before December 12, 2007.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: December 03, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUN
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Burvin Stevenson on this date.

Dated: December 03, 2007

s/ Lisa C. Bartlett
Courtroom Deputy